

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MALIBU MEDIA, LLC
Plaintiff

v.

JOHN DOE
Subscriber-Assigned IP Address:
108.4.240.19
Defendant

Civil Action No. 2:18-CV-01642-
JD

Honorable Jan E. DuBois

**DEFENDANT JOHN DOE'S MOTION TO QUASH SUBPOENA
OR ALTERNATIVELY FOR PROTECTIVE ORDER**

Defendant, John Doe, with a subscriber-assigned IP address of 108.4.240.19 ("Defendant"), by and through undersigned counsel, hereby moves this Honorable Court to quash Malibu Media, LLC's ("Plaintiff") May 17, 2018 subpoena pursuant to Federal Rule of Civil Procedure 45. Alternatively, Defendant hereby moves this Honorable Court to enter a Protective Order pursuant to Federal Rule of Civil Procedure 26(c)(1).

Malibu Media, LLC is a California-based film company that owns the copyrights to several pornographic films. Since July of 2012, Plaintiff has filed numerous lawsuits in federal courts across the country and has named hundreds, if not thousands, of John Doe defendants in the process. At least twenty (20) of those cases were filed in the Eastern District of Pennsylvania.

In the instant action, Plaintiff, on April 18, 2018 filed its Complaint against Defendant, averring that it is the registered owner of several copyrights and further avers,

without sufficient substantiating evidence, that Defendant is “a persistent online infringer of Plaintiff’s copyrights.” See Compl. at ¶¶ 2-3.

More specifically, Plaintiff avers that Defendant “downloaded, copied, and distributed a complete copy of Plaintiff’s works without authorization” through the use of a filing-sharing protocol otherwise known as Bit-Torrent. Compl. *passim*.

On the same day, Plaintiff filed its Jury Trial Demand. On May 17, 2018, based on the theory that Defendant’s IP address is needed to effectively prosecute its infringement claim, Plaintiff subpoenaed Defendant’s Internet Service Provider (ISP), Verizon.

Around the same time, Defendant received Verizon’s notice of Plaintiff’s subpoena and learned that Plaintiff was trying to discern his identity through an IP address in the hope of substantiating its infringement claims. Verizon’s notice further provided that Defendant’s identity would be disclosed to Plaintiff if Defendant did not object to Plaintiff’s subpoena by June 21, 2018.

The relief requested by Defendant is warranted because: (1) Defendant has standing to object to the instant Subpoena, (2) Plaintiff cannot identify Defendant as the individual responsible for committing the alleged infringement with a substantial degree of accuracy, (3) the instant matter implicates Defendant’s privacy interests, and (4) the instant matter involves the risk of an inaccurate identification and the corresponding risk for coercion into an unjust settlement.

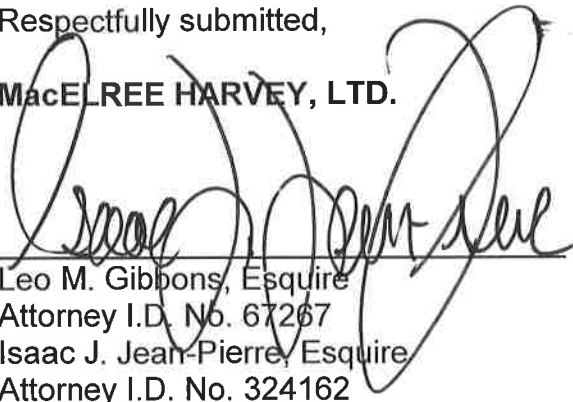
In further support of the instant Motion, Defendant incorporates his Memorandum of Law in Support of his Motion to Quash or, alternatively, for Protective Order, which was contemporaneously filed herewith.

Respectfully submitted,

MacELREE HARVEY, LTD.

Date: June 21, 2018

By:



Leo M. Gibbons, Esquire
Attorney I.D. No. 67267
Isaac J. Jean-Pierre, Esquire
Attorney I.D. No. 324162
17 W. Miner Street, Box 660
West Chester, PA 19381-0660
(610) 436-0100
Attorneys for Defendant

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ORDER

AND NOW, this _____ day of _____, 2018, upon consideration of Defendant's Motion to Quash Subpoena or alternatively for Protective Order and Plaintiff's response thereto, the matter being fully briefed and argued, it is hereby ORDERED that Defendant's Motion to Quash is GRANTED and the Subpoena is QUASHED.

BY THE COURT:

Honorable Jan E. DuBois
United States District Judge

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ORDER

AND NOW, this _____ day of _____, 2018, upon consideration of Defendant's Motion to Quash Subpoena or alternatively for Protective Order and Plaintiff's response thereto, the matter being fully briefed and argued, it is hereby ORDERED that Defendant's Motion for Protective Order is GRANTED. It is further ORDERED that the parties shall use Defendant's John Doe designation throughout the course of the above-captioned action.

BY THE COURT:

Honorable Jan E. DuBois
United States District Judge